

Application No. 10/534,649
Paper Dated: July 28, 2010
In Reply to USPTO Correspondence of April 28, 2010
Attorney Docket No. 3135-051381

REMARKS

The Office Action of April 28, 2010 has been reviewed and the comments therein carefully considered. Applicant thanks the Examiner for reopening prosecution in view of the Amendment After Final Rejection filed March 23, 2010.

This application has been amended. In particular, claim 16 has been amended to address the rejections under 35 U.S.C. §112, second paragraph raised in the April 28, 2010 Office Action. Support for this amendment can be found in the previous version of the claims as well as in Figure 2. No new matter has been added through these amendments. Claim 18 has been cancelled. Accordingly, claims 16-17, 19 and 21-26 are pending, of which claim 16 is in independent form. For the following reasons, Applicant submits that the pending claims are patentable over the cited art of record and the application is in condition for allowance.

Rejections Under 35 U.S.C. §112, Second Paragraph

Claims 16-19 and 21-26 stand rejected under 35 U.S.C. §112, second paragraph for indefiniteness. In view of the foregoing amendments to the claims, Applicant respectfully traverses this rejection.

Claim 16 recites the limitation “the environment.” The Office Action objects to this phrase as lacking proper antecedent basis and failing to explain what is meant by “the environment.” Applicant has amended claim 16 to recite “an environment” to address the perceived antecedent basis issue. Claim 16 has further been amended to clarify the referenced environment is the area that is surrounding the package. This is consistent with a common understanding of what is meant by “environment” and is also consistent with the figures which show compartments (4, 5, 6) shielded from the area (or environment) surrounding the container.

The Office Action further asserts that it is not clear what is meant by “shielded” with respect to “shielded from the environment” because the disclosure also discusses “microwave shielding.” Applicant initially notes that reference to “microwave shielding” is with respect to background discussion, not the present invention. Moreover, it is submitted that these usages of the word “shielded” are consistent. Just as the “microwave shielding” acts to “shield”

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or protects certain compartments from microwaves, the inventive package shields or protects the compartments from the surrounding environment.

The Office Action also includes several rejections of claims 16 and 22-23 under 35 U.S.C. §112, second paragraph for indefiniteness related to the “openable passage openings” limitation. First, Applicant wishes to clarify that the “openable passage openings” are, as the language suggests, openings which are openable. In fact, the word “openable” was added in the February 26, 2009 Amendment in response to a rejection under 35 U.S.C. §112, second paragraph questioning whether the passage openings are open or necessarily closed.

Claim 16 has been amended to address the additional rejections under 35 U.S.C. §112, second paragraph. For instance, the manner in which the pressure valves differ from one another is addressed by the present amendment.

In view of the foregoing amendments and comments, Applicant respectfully requests that the rejections under 35 U.S.C. §112, second paragraph be reconsidered and withdrawn.

Rejection Under 35 U.S.C. §103(a)

Claims 16-18 and 24-26 stand rejected under 35 U.S.C. §103(a) for obviousness over Goltsos (United States Patent No. 4,013,798) in view of a dictionary entry for “valve,” Hiyoshi (United States Patent Publication No. 2001/0012530), Igarashi (JP 11-049251), Mizuno (United States Patent No. 5,989,608), and Riess (DE 3801122) and in further view of Oshima (United States Patent No. 4,834,247), Brown (United States Patent No. 3,219,460) and Lueneburg (United States Patent No. 2,456,134).

Claim 16 is directed to a multi-compartment package for containing a plurality of products for heating. The package includes, among other features, openable passage openings which comprise pressure valves through which a medium can flow when the valves are in the open position. The pressure valves of the individual compartments differ from each other by opening at different pressure levels, allowing the overpressure in the individual compartments to be maximized at different pressures.

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The container shown in Fig. 7 and described beginning with line 21 of column 5 of Goltsos includes water laden food-bearing compartments in which a notch is formed by the side wall and adjacent rim. These notches formed in the sidewall and rims of the container are purported to allow water vapor to escape from the respective compartments. While these notches are not identified as “valves” in Goltsos, the Office Action asserts that Applicant has not provided any definition of “valve,” and employs similar types of structures, thereby justifying a conclusion that Goltsos teaches valves as that term is used in claims.

Applicant respectfully disagrees. The subject invention is directed to containers that include openable passage openings that allow for the maximum pressure achieved in the compartments to vary through the use of pressure valves. The valves are able to regulate pressure in the respective compartments and, more importantly, are able to be varied between the compartments so that the maximum pressure achieved in the different compartments can be maximized at different levels. Goltsos does not teach or contemplate valves having these features. Instead, the notches in Goltsos appear to allow built-up water vapor to escape when the vapor pressure becomes excessive. These notches thus do not regulate the pressure in and between the compartments as in the present invention.

In addition, as the Office Action correctly notes, Goltsos does not teach or suggest providing the various compartments in the container with valves which differ from one another based on the pressure level at which they open. The Office Action cites several additional references (Igarashi, Hiyoshi, Mizuno, Riess, Oshima, Brown and Lueneburg) as allegedly providing the motivation to one skilled in the art to modify Goltsos to provide valves on the different compartments where the valves differ from one another in terms of the pressure at which they open to allow for the maximum pressure within the various compartments to differ.

However, Applicant respectfully disagrees that these secondary references would provide the necessary teachings to lead one skilled in the art to modify Goltsos as proposed. For instance, Brown is the only document among those cited that relates to a multi-component food container that requires different heating in each compartment. However, Brown uses an aluminum foil covering with holes cut in it to regulate cooking time. Brown is thus not directed to regulating cooking pressures and would have no use for regulating pressure valves. Igarashi

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discloses a reusable cooking bag with a single compartment. Similarly, Mizuno discloses a valve that opens at a predetermined pressure, but wholly fails to provide any suggestion that multiple, differing valves could be used as part of the same container for purposes of providing compartments for regulating cooking pressure. In Hiyoshi, the concern is preventing explosion within the single-compartment food package by releasing a hole-sealing sheet when the food in the container reaches the adequately cooked state. No means of regulating cooking pressure in different compartments is disclosed or contemplated. Oshima discusses a food package with a seal that breaks above a certain temperature, not pressure, to form an opening, which would not be a particularly useful teaching to one seeking to modify Goltsos as is proposed in the Office Action. Lueneburg also fails to disclose or suggest utilizing valves for different compartments that operate at different pressures. The valves in Riess appear to all be equivalent and thus do not operate at different pressures.

Therefore, Applicant respectfully submits that the cited art of record does not obviate the presently claimed invention. Accordingly, reconsideration of the outstanding rejections under 35 U.S.C. §103(a) is respectfully requested.

Evidence of Commercial Success

As further support for the non-obviousness of the claimed invention, Applicant submits that the invention described and claimed in the subject application has been commercially successful.

For instance, the assignee of the subject application has successfully entered into license agreements involving the underlying PCT application (and any applications granting therefrom) on at least two occasions with manufacturers of chilled and frozen food in both The Netherlands and Great Britain. These license agreements evidence that third-parties in the relevant field respect the technology described in the subject application.

Attached herewith are two photographs showing commercial embodiments of the described and claimed multi-compartment container with valves regulating the pressures in the individual compartments. Also, attached is a copy of a presentation the assignee has used to achieve the commercial success. The presentation describes that a key advantage of the

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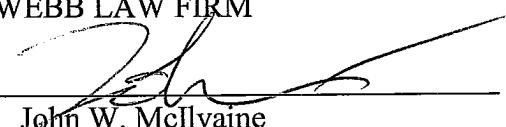
commercial product is the patented¹ technology with the valves and separate compartments for heating. Thus, the commercial success achieved is based on the subject matter of the claims.

CONCLUSION

For the foregoing reasons, Applicant submits that the pending claims are patentable over the cited art of record and are in condition for allowance. Accordingly, reconsideration of the outstanding rejections and allowance of pending claims 16, 17, 19 and 21-26 are respectfully requested.

Respectfully submitted,

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¹ Applicant understands that the invention is not patented in the United States. This presentation is presented in other countries.